

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at KNOXVILLE

LEONARD DONALD SMITH)
)
Petitioner,)
)
v.) No. 3:06-cv-426
) *Jordan*
DAVID MILLS, Warden)
)
Respondent.)

MEMORANDUM AND ORDER

This is a *pro se* petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Clerk is **DIRECTED** to serve copies of the petition and this Memorandum and Order upon the respondent and the Attorney General for The State of Tennessee. However, for the reasons stated below, the respondent shall not be required to file an answer or other pleading to the petition at this time, and the petitioner is **ORDERED** to **SHOW CAUSE** why his petition should not be dismissed as time-barred.

Petitioner challenges his 1983 conviction for second degree murder. The conviction was affirmed on direct appeal in 1985, and petitioner has been denied post-conviction relief on several occasions, the last being in 1995. *See, e.g., Smith v. State*, Nos. 03COL-9503-CR-00097, 03COL-9503-CR-00098, 1995 WL 540425 (Tenn. Crim. App. September 13, 1995), *perm. app. denied, id.* (Tenn. January 2, 1996).

There is a "1-year period of limitation [that] shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court." 28 U.S.C. § 2244(d)(1). The limitation period generally runs from the date on which the judgment of conviction became final. Smith's conviction became final in 1985. He filed the pending habeas corpus petition on November 6, 2006. Accordingly, Smith is **ORDERED** to **SHOW CAUSE**, within twenty (20) days of the date of this Memorandum and Order, why his habeas corpus petition should not be dismissed as time-barred. *See Day v. McDonough*, 126 S. Ct. 1675 (2006) (a district court may *sua sponte* dismiss a habeas corpus petition as untimely, after giving the petitioner an opportunity to show cause why the case should not be dismissed as time-barred).

E N T E R:

s/ Leon Jordan
United States District Judge